

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL NO. 1:03CV220

UNITED STATES OF AMERICA,)

Plaintiff,)

Vs.)

AMENDED JUDGMENT

HERBERT E. KUBALAK; TROY)

STEVEN MESSER; J. RANDY)

HERRON; HERRON LAND)

SURVEYING, PC, a/k/a Herron)

Surveying, PC; AMY R. MURRAY, in)

her official capacity as Register of Deeds)

for Haywood County, North Carolina;)

NORMAN DOYLE GREEN, JR.;)

RICKEY OGLE and wife, CRYSTAL D.)

OGLE; THURMAN A. EVANS, JR., and)

wife, BRENDA EVANS; UNITED)

COMMUNITY BANK; and GAVIN A.)

BROWN, Trustee,)

Defendants.)

For the reasons set forth in the Memorandum and Order filed herewith,

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that the Plaintiff's motion for summary judgment is **ALLOWED**.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the boundaries of the Troy Steven Messer Tract shall be located and described as follows:

BEGINNING at a US Forest Service Monument (found), a corner between the United States of America Forest Service Tract 31-B (Pisgah National Forest), known as Corner #16, in the western margin of a Carolina Power & Light Company right of way (Deed Book 73, Page 599), and running thence with the

said right of way, N. 20 deg. 56 min. 14 sec. W. 858.18 feet to a USFS Monument (found), for Tract 31-B, known as Corner #12; thence leaving the Carolina Power & Light Company right of way line and running with the United States of America Forest Service Tract 31-B (Pisgah National Forest) lines, four calls as follows: N. 50 deg. 08 min. 32 sec. W. 499.20 feet to USFS Monument (found) for Tract 31-B, known as Corner #13; S. 38 deg. 00 min. 00 sec. W. 1609.84 feet to a USFS Monument (found) for Tract 31-B, known as Corner #14; S. 51 deg. 44 min. 56 sec. E. 1229.36 feet to a USFS Monument (found) for Tract 31-B, known as Corner #15; and N. 38 deg. 14 min. 00 sec. E. 1156.25 feet to the BEGINNING, containing 41.519 acres, according to the plat of survey entitled "Plat Prepared for Herbert E. Kubalak", by J. Randy Herron, R.L.S. dated September 2, 1997. See Drawing Number 2965-2126-B.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that any subsequent plats of record relating to this tract shall be labeled with a warning plainly visible on the face thereof reading as follows: **"This map may be partially or wholly voided by Judgment appearing of record in Book _____, Page _____, of the Haywood County Register of Deeds."**

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that any and all claims by any of the named Defendants to any part or parcel of land or a twenty (20) foot right-of-way lying outside the boundaries of the above-described tract and within the adjoining United States property are declared **VOID AND UNENFORCEABLE**.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover of the Defendants Herbert E. Kubalak and Troy Steven Messer, jointly and severally, damages as follows: **\$ 6,011.71** for the costs of restoring Forest Service Road #3537 as near as may be possible to its original condition; **\$ 2,002.00** for the costs of removing the new road connecting with Forest Service Road #287; and **\$ 950.00** for the costs of fence and marker removal; for a total sum of **EIGHT THOUSAND, NINE HUNDRED SIXTY-THREE**

DOLLARS AND SEVENTY-ONE CENTS (\$ 8,963.71). This Judgment shall be paid in full within 30 days from entry of this Judgment.

Signed: August 9, 2006

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

